

ESTTA Tracking number: **ESTTA247731**Filing date: **11/09/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Michael J Peter		
Entity	Individual	Citizenship	UNITED STATES
Address	3365 North Federal Highway Fort Lauderdale, FL 33306 UNITED STATES		

Attorney information	Daniel S. Polley Daniel S. Polley, P.A. 1215 East Broward Boulevard Fort Lauderdale, FL 33301 UNITED STATES dan@danpolley.com Phone:954-234-2417
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Registration Subject to Cancellation

Registration No	2783766	Registration date	11/18/2003
Registrant	Suicide Girls, Inc. 25 NW 23rd Place Suite 6 Portland, OR 972105599 UNITED STATES		

Goods/Services Subject to Cancellation


Class 025. First Use: 2002/09/00 First Use In Commerce: 2002/09/00 All goods and services in the class are cancelled, namely: Clothing, namely, jackets, t-shirts, tank tops, sweatshirts and collared shirts sold in connection with online adult entertainment services via a global computer network
Class 041. First Use: 2001/09/00 First Use In Commerce: 2001/09/00 All goods and services in the class are cancelled, namely: entertainment services in the nature of providing adult material over a global computer network

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77498645	Application Date	06/13/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SG		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1987/01/01 First Use In Commerce: 1987/01/01 Nightclub services; nightclub entertainment services; adult entertainment services

Attachments	77498645#TMSN.jpeg (1 page)(bytes) Petition to Cancel(Elec).pdf (4 pages)(22743 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Daniel S Polley/
Name	Daniel S. Polley
Date	11/09/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter Trademark Registration No. 2,783,766

For the Mark: SG and Design

Date Registered: November 18, 2003

MICHAEL J. PETER,)
)
Petitioner,)
vs.)
)
SUICIDE GIRLS, INC.)
)
Registrant.)
_____)

PETITION FOR CANCELATION

Petitioner is Michael J. Peter, an individual, residing in Fort Lauderdale, Florida and having a business address of 3365 North Federal Highway, Fort Lauderdale, Florida 33306 (herein after referred to as “Petitioner”). To the best of Petitioner’s knowledge, the above identified registration is owned by Suicide Girls, Inc., a corporation organized under the laws of the State of Oregon and with its address listed in its registration at 25 N.W. 23rd Place, Suite 6, Portland, Oregon 97210 (herein referred to as “Registrant”). The above-mentioned Petitioner believes that it has and will be damaged by the continued registration of U.S. Registration No. 2,783,766 (“the ‘766 Registration”) for the trademark/service mark “SG and Design” and hereby petitions to cancel the same.

The grounds for the cancellation are as follows:

1. Petitioner is the senior user and owner of the mark SG used in connection with at least the following services and goods: nightclub services, nightclub entertainment services, adult entertainment services, as well as clothing and other paraphernalia sold in connection with the above listed services (collectively referred to as “Petitioner’s Services and Goods”).

2. Petitioner’s date of first use of the SG in connection with at least some, if not all, of Petitioner’s Services and Goods is at least as early as January 1, 1987, if not earlier.

3. Petitioner's date of first use in commerce of the SG mark in connection with at least some, if not all, of Petitioner's Services and Goods is at least as early as January 1, 1987, if not earlier.

4. On June 13, 2008, Petitioner applied to register its SG mark on the Principal Trademark Register for use on or in connection with Petitioner's above listed services under 15 U.S.C. 1051(a), Section 1(a) of the Trademark Act. The application was assigned Serial No. 77/498,645 (the '645 Application') by the United States Patent and Trademark Office ("PTO").

5. The '766 Registration' has been cited by the Examining Attorney reviewing Petitioner's application as a bar to the registration of Petitioner's SG mark shown in Petitioner's '645 Application.

6. The filing date of the application that matured into the '766 Registration is May 15, 2002.

7. The date of first use and date of first use in commerce identified in the '766 Registration for International Class 41 is September 2001 and for International Class 25 is September 2002.

8. Petitioner's date of first use of its SG mark predates and is prior to the Registrant's filing date, claimed dates of first use and claimed dates of first use in commerce.

9. Petitioner's date of first use in commerce of its SG mark predates and is prior to the Registrant's filing date, claimed date of first use and claimed date of first use in commerce.

10. Petitioner has continuously used and continues to use its SG mark since its date of first use and date of first use in commerce.

11. Petitioner has trademark priority as the senior user and owner of the mark SG for Petitioner's above-listed services and goods.

12. In view of Petitioner's superior rights to the SG mark if Registrant's '766 Registration is permitted to remain registered, Petitioner will continue to suffer injury to itself and its trademark rights, including, but not limited to, the maintained refusal to allow registration of Petitioner's mark reflected in the '645 Application.

13. Petitioner's common law rights to the mark SG were established before the filing date of the application the matured into the '766 Registration, Registrant's claimed dates of first use in the '766 Registration and Registrant's claimed dates of first use in commerce in the '766 Registration.

14. Petitioner's superior common law rights to the mark SG provide a basis for canceling the '766 Registration.

15. Due to the substantial similarity between Petitioner's SG mark and Registrant's SG and Design mark and the related nature of the parties' respective services and goods, consumers and purchasers are likely to believe, and would be justified in believing, that the Registrant's services and goods originate from the Petitioner or an entity in some way associated with the Petitioner in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

16. Registrant's SG and Design mark so resembles Petitioner's SG mark as to be likely, when applied to the services and goods of Registrant, to cause confusion or mistake or to deceive consumers as to the source, sponsorship, endorsement, authorization or approval of Registrant's services and goods, thereby resulting in irreparable damage and detriment to Petitioner and its reputation in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

17. Continued registration of Registrant's SG and Design mark would be a continued source of damage and injury to Petitioner and a source of confusion to Petitioner's many customers who rely upon the reputation of the Petitioner, the high quality of Petitioner's services and goods as reflected by Petitioner's SG mark and because consumers are likely to attribute the source or sponsorship of Registrant's services and goods to Petitioner in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

18. For any of the above reasons, U.S. Registration No. 2,783,766 must be cancelled by the Trademark Trial and Appeal Board ("Board") of the United States Patent and Trademark Office.

WHEREFORE, Petitioner will be harmed by the continued registration of U.S. Registration No. 2,783,766. Petitioner requests that Registration No. 2,783,766 be deemed invalid and cancelled and that this petition for cancellation be sustained in favor

of Petitioner on the merits, for all grounds identified in the Petition. Petitioner also requests any other relief that the Board deems appropriate.

This Petition is being filed electronically and the required fee is being paid electronically on November 9, 2008.

Respectfully submitted.

Attorneys for Petitioner

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CERTIFICATE OF SERVICE

I certify that this correspondence is being served on Applicant by depositing one copy thereof with the United States Postal Service as first class mail, postage prepaid, in an envelope to:

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3223 Webster St.
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Suicide Girls, Inc.
25 NW 23rd Place Suite 6
Portland, OR 972105599

This 9th day of November, 2008.

Attorneys for Petitioner

November 9, 2008

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